

Ouachita Parish  
Filed Feb 11, 2022 12:54 PM  
Brittnie Cervantes  
Deputy Clerk of Court  
FAX Received Feb 10, 2022  
C-20220456  
CV1

OLIVIA CARTER, INDIVIDUALLY  
ON BEHALF OF THE MINOR CHILD,  
KERRY LEE MADISON

CIVIL DOCKET NUMBER \_\_\_\_\_

VERSUS

4<sup>TH</sup> JUDICIAL DISTRICT COURT

OCHSNER LSU HEALTH - MONROE

OUACHITA PARISH, LOUISIANA

**PETITION FOR DAMAGES**

The petition of OLIVIA CARTER, Individually and on behalf of the minor child, KERRY LEE MADISON, appearing herein through undersigned counsel, with respect represents:

1.

Made defendant herein is OCHSNER LSU HEALTH - MONROE (sometimes referred to as the "defendant Hospital"), a hospital authorized to do and doing business in the State of Louisiana and is located in Monroe, Ouachita Parish, Louisiana and who may be served at 4864 Jackson Street, Monroe, Ouachita Parish, Louisiana 71201.

2.

Petitioner shows that her daughter, Octavia Taylor, was a patient at the defendant Hospital from December 6, 2020 through February 12, 2021; and Petitioner, Olivia Carter, was the primary emergency and treatment contact for her daughter.

3.

Petitioner shows that the minor child, KERRY LEE MADISON, is the minor son of Octavia Taylor. Petitioner shows that Octavia Taylor is now deceased, having died on June 15, 2021.

4.

Petitioner shows that sometimes on or about January 8, 2021, a photo and some confidential medical information concerning Octavia Taylor was communicated on social media, i.e. Facebook, in violation of HIPAA (Health Insurance Portability and Accountability Act of 1996). Petitioner shows that the information came from an employee at the defendant Hospital. Petitioner shows that the defendant Hospital was notified that Octavia Taylor's photo and confidential medical information was placed on Facebook and that the information had to come



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from the defendant Hospital. Petitioner shows that it is believed that Dwan Carter, a former employee at the defendant Hospital placed the post.

5.

Petitioner shows that the defendant Hospital investigated the medical breach and confirmed by letter dated February 10, 2021 that:

"we nevertheless have determined that the incident amounts to a HIPPA privacy breach, as we could not definitely rule out that the photo and information shared by your relatives may be come from a source within Ochsner. In response, we have taken several measures to prevent any future similar incidents. We added a security feature known as "Break the Glass" to Octavia's HER, which requires any employee attempting to access her the [sic] record to enter a specific business reason for the access and to re-enter their unique password before access will be granted. We also installed additional security cameras in the Intensive Care Unit to ensure that Octavia's room is directly covered. Furthermore, we discussed the requirements of HIPAA and internal policies governing patient privacy with several employees and leaders. Lastly, we re-staffed the employee who you were most concerned about to ensure the employee no longer goes into or near Octavia's room."

A copy of the February 10, 2021 letter is attached hereto, incorporated herein and made a part hereof as Exhibit "A".

6.

Petitioner shows that the defendant Hospital was negligent in the manner in which it operated and handled Octavia Taylor's medical information by violating HIPAA and Octavia Taylor's right to privacy.

7.

Petitioner shows that she and the minor child, **KERRY LEE MADISON**, have been damaged as a result of the defendant Hospital's actions mentioned hereinabove regarding her daughter, and his mother, respectively. Petitioner shows that she and the minor child have suffered hurt and pain of her daughter and the minor child's mother's information being placed on Facebook; and have suffered mental anguish and emotional distress. Petitioner, **OLIVIA CARTER**, has suffered harassment from family and friends.



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8.

Petitioner shows that the defendant Hospital should be cast to pay all costs of these proceedings, together with reasonable attorneys' fees, and legal interest from date of judicial demand.

**WHEREFORE**, Petitioner prays:

- (1) That the defendant, **OCHSNER LSU HEALTH – MONROE**, be served with a certified copy of this Petition, duly cited to appear and answer same;
- (2) That after all due proceedings are had herein that there be judgment herein in favor of plaintiffs, **OLIVIA CARTER, INDIVIDUALLY AND ON BEHALF OF THE MINOR CHILD, KERRY LEE MADISON**, and against the defendant, **OCHSNER LSU HEALTH – MONROE**, for damages, all costs of these proceedings and reasonable attorney's fees, and legal interest from date of judicial demand;
- (3) For all such orders and decrees which are necessary for full, general and equitable relief in the premises.

**MINIFIELD & HARPER**

  
L. CHARLES MINIFIELD  
BAR ROLL NO. 00968  
1306 Sibley Road (71055) – P. O. Box 796  
Minden, Louisiana 71058-0796  
Phone: (318) 377-7131  
Fax: (318) 71-0902

**SERVICE INFORMATION:**

PLEASE HOLD SERVICE ON THE DEFENDANT AT THIS TIME



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February 10, 2021

Ms. Olivia Carter  
 P.O. Box 41  
 Cotton Valley, LA 71018

**Subject: Notification of Privacy Breach Concerning Ms. Octavia Taylor (MRN 11410752)**

Dear Ms. Carter:

The Compliance and Privacy Department at Ochsner Health was recently notified of privacy concerns reported by your family to staff at OLHS-Monroe on or about January 8, 2021. Specifically, it was reported that a photo of your daughter, Octavia Taylor, was posted by a relative of yours on social media along with comments regarding Octavia's ongoing treatment at OLHS-Monroe. At the time the photo and comments were posted, Octavia was inpatient at the facility, where she remains today. Because Octavia was unable to communicate the privacy concerns due to her ongoing medical condition, communication took place between myself, you, and your daughter, Vivian. As part of Ochsner Health's commitment to ensuring the privacy and confidentiality of our patients' information, we immediately initiated an investigation into this matter. You are receiving this letter because you are listed as Octavia's primary emergency and treatment contact.

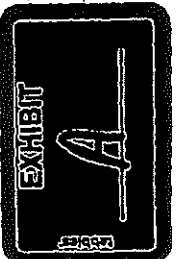
Our investigation into these privacy concerns was extensive and multi-faceted. We first reviewed social media accounts of your relative who posted the photo and comments in an effort to draw connections between that person to any particular Ochsner employee(s). During the course of our social media review we also watched Facebook Live streams/videos posted by your relative which discussed Octavia's ongoing treatment to see if she disclosed the possible identity of an information source at Ochsner. Our social media review did not uncover any specific Ochsner information source. Next, we reviewed access logs of all employees who entered Octavia's electronic health record (EHR) from the time of her admission through January 8, 2021 to see if any access appeared inappropriate. Our access review did not appear to show any inappropriate record access.

We then spoke with you extensively to help determine the identity of a specific employee who you and your family have interacted with at OLHS-Monroe and who you believe may have been the source sharing information with your relative. Our investigation eventually led us to identify and interview this employee. Ultimately, we were not able to establish a connection between your relative and the employee, and a review of access logs into Octavia's medical record did not lead us to conclude that the employee inappropriately accessed or shared information regarding Octavia's treatment with anyone outside of Ochsner. During our initial efforts to identify this employee, we spoke with several other employees and found they were not connected to your relative and did not appear to have inappropriately accessed or shared any information regarding Octavia's treatment.

Our investigative efforts also included conversations with unit leaders and employees to see if they had witnessed any unusual activity in or near Octavia's room, reviews of visitor logs dating back to the date of Octavia's admission, and reviews of security camera footage. Ultimately, we were not able to determine whether any Ochsner employee inappropriately shared information regarding Octavia's treatment with any individual outside of Ochsner, nor whether any employee took the photo of Octavia that was posted to social media by your relative.

Ochsner Health Compliance and Privacy

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Though our investigation into these privacy concerns was inconclusive, we nevertheless have determined that the incident amounts to a HIPAA privacy breach, as we could not definitively rule out that the photo and information shared by your relative may have come from a source within Ochsner. In response, we have taken several measures to prevent any future similar incidents. We added a security feature known as "Break the Glass" to Octavia's EHR, which requires any employee attempting to access her the record to enter a specific business reason for the access and to re-enter their unique password before access will be granted. We also installed additional security cameras in the Intensive Care Unit to ensure that Octavia's room is directly covered. Furthermore, we discussed the requirements of HIPAA and internal policies governing patient privacy with several employees and leaders. Lastly, we re-staffed the employee who you were most concerned about to ensure the employee no longer goes into or near Octavia's room.

We deeply regret this occurrence and any inconvenience this situation has or may cause you. We assure you that we take this matter very seriously and we will continue to work diligently to improve our processes and security to protect the medical records and personal information of our patients. Because Ochsner Health does not believe that this occurrence poses a significant risk to Octavia's personal information, no action is required on your part. If you have any further questions or concerns regarding this notification, please feel free to contact me directly at the email address or phone number listed below.

Sincerely,

**Jack Talaska**  
Sr. Compliance Specialist  
Compliance and Privacy  
(504) 842-6492  
jack.talaska@ochsner.org

Ochsner Health Compliance and Privacy

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OUACHITA PARISH, LOUISIANA

VERIFICATION

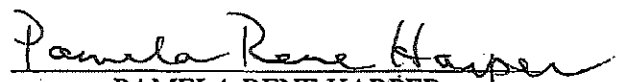
STATE OF LOUISIANA:

PARISH OF WEBSTER:

**BEFORE ME**, the undersigned competent authority, a Notary Public duly commissioned and qualified in and for the State and Parish aforesaid, **PERSONALLY CAME AND APPEARED: L. CHARLES MINIFIELD**, attorney for the petitioner in the above and foregoing Petition, who, after first being duly sworn, did depose and state that he has read the above and foregoing Petition; and that all of the allegations contained therein are true and correct to the best of his knowledge, information and belief.

  
L. CHARLES MINIFIELD,  
Attorney for Plaintiff

**SWORN TO AND SUBSCRIBED BEFORE ME**, NOTARY PUBLIC, this 10<sup>th</sup> day of February, 2022, at Minden, Webster Parish, Louisiana.

  
PAMELA RENE HARPER  
BAR ROLL NO. 19337  
NOTARY PUBLIC  
My commission expires: Upon death.



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